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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,445	09/12/2003	Terry Karanikas	KARA-2798US2	7819

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,445

Applicant(s)

KARANIKAS, TERRY

Examiner

M. Safavi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on September 12, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 7, "said volume" lacks antecedent basis within the claim.

Claim 4, line 3, "said side panels" lacks antecedent basis within the claim. Lines 3-4, "said end panels" lacks antecedent basis within the claim.

Claim 13, line 3, "the form" lacks antecedent basis within the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-7, 13, 15, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Dial, Jr. '424. Dial, Jr. teaches a method of constructing a wall unit using a molding technique comprising operationally attaching a plurality of panels in an upright manner and filling the volume with a binding material (Fig. 6 and col. 5, lines 22-28), and subsequent to curing of the binding material, removing the panels (col. 5, lines 5, lines 46-49). Dial also teaches arranging at least one layer of discrete veneer components 64 adjacent one of the plurality of panels 66 (Fig. 15-16 and col. 8, lines 8-32). The provision of the openings 62 in the interior face 60 of the mold panel 66 provides spacers which inherently comprises the step of placing shim material between the discrete veneer components. Dial also teaches forming an indentation 92 to prepare a seamless joint (Fig. 19 and col. 8, lines 33-37). Dial teaches adding a coloring agent to the binding material (col. 9, lines 12-15). Prior to the step of filling the volume with the binding material, Dial teaches providing for at least one chaseway 5 and adding reinforcing rods 3 into the form before the step of filling the volume (Fig. 8, and col. 4, lines 56-60). Dial teaches the step of removably attaching shaped structures 16,16a to the panels 17 to form an indentation in a surface; Dial teaches aligning the shaped structures (e.g. col. 6, lines 38-40). Dial teaches a wall unit form (Fig. 6) comprising a first, second, and end surfaces 17,17a operatively attached thereby forming an upright form and opposing sides; pocket structures 16,16a may be operatively attached to the surfaces.

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Claims 15, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Carvel '504. Carvel teaches, Figs. 26-33, a wall unit form 31 comprising first, second, and end surfaces operatively attached forming an upright form and opposing sides. The surfaces are hingedly attached (page 3, lines 58-62). Pocket structures 8 are operatively attached to surfaces.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carvel '504. Carvel does not recite method steps, however the method steps of these claims are considered obvious over the wall unit form of Carvel (Figs. 26-33) since that wall unit form includes all of the structural features required by the claim and since the obvious method steps of using any such wall unit form include properly attaching the panels, filling the volume with binding material, and removing the panels. Regarding specific limitations recited in the claims, Carvel teaches the panels of form 31 arranged in an upright manner and teaches arranging a layer of discrete veneer components (the bricks) adjacent the panels. Carvel further teaches placing shim material 33 between the discrete veneer components. Carvel teaches shaped structure 8 attached to the panels; obviously these shaped structures would be properly aligned

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(see Fig. 33 wherein the resultant pocket structures are aligned). Carvel also teaches forming indentations (as at 29) to prepare a seamless joint. Carvel teaches adding reinforcing rods 32 to the form before filling the volume (page 3, lines 69-72). Carvel teaches that the binding material may be colored (page 3, lines 10-13).

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Piazza '362.

Regarding claim 8, neither Dial nor Carvel discloses texturing the binding material. It is, however, within the level of ordinary skill in the art to select a known material on the basis of its suitability for the intended use as an obvious matter of design choice, *In re Leshin*, 125 USPQ 416. Piazza teaches a cementitious binding material for a wall unit and further teaches texturing it by inclusion of glass fibers therein, and optionally other aggregates as well such as sand, gravel, broken stone, and marble chips (col. 5, lines 11-15). Accordingly, it would have been within the level of ordinary skill in the art to texturize the concrete of Dial or Carvel as an obvious matter of design choice in order to create the desired texture and provide the requisite strength since texturized cementitious material has been shown by Piazza to be a known material for the intended use as the binding material in a wall unit.

Regarding claims 9-11, neither Dial nor Carvel discloses applying an exterior coating to the wall unit. Piazza teaches a cementitious wall unit and teaches applying a surface finish thereto, specifically Piazza teaches both weatherproofing sealer and graffiti-resistant coating (col. 6, lines 20-29). Accordingly, it would have been obvious to

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one with ordinary skill in the art to modify the wall unit of Dial or Carvel to include an exterior coating, including weatherproofing sealer and/or graffiti-resistant coating as taught by Piazza in order to enhance the durability and appearance of the wall unit.

Claims 12, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. 424 or Carvel '504 in view of Schultz '761.

Neither Dial nor Carvel discloses forming a void/volume to produce an integral base/footing. Schultz (Figs. 2-5) shows forming a void/volume by providing extensions 9 on a mold to produce an integral base/footing; note that Schultz also teaches that the volume may have radiused corners as at 59 or 61. Accordingly, it would have been obvious to one with ordinary skill in the art to modify the mold of Dial or Carvel to include extensions forming a void/volume, optionally including radiused corners, as taught by Schultz in order to provide integral forming of a footing. Note that this modification is consistent with Dial's disclosure that architectural details may be built into the blocks (e.g. note block 93 in Fig. 14 and corresponding description in col. 7, lines 65-67) and Carvel's disclosure that the method may be employed to form wall sections of any desired shape such as may be designed by an architect for any particular part of the building (note page 3, lines 77-87).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Scott et al. '387.

Dial teaches the veneer components 64 to be placed directly in the mold panel 66 and does not disclose a form liner as claimed. Carvel teaches the spacers to be secured to the panel in any convenient manner and does not disclose a form liner as claimed. Scott teaches a planar form 12 having installed thereto a form liner 14 for holding veneer components 18. Accordingly, it would have been obvious to one with ordinary skill in the art to modify the mold of Dial or Carvel to include a planar wall mold and include the liner separately formed as taught by Scott since making components separable is an obvious improvement allowing for greater versatility with a basic mold.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dial, Jr. '424 or Carvel '504 in view of Torricelli '570.

Dial only shows a rectangular wall unit and form. Carvel teaches a wall unit form based on rectangular aspects. Blocks having non-rectangular shapes, however, are notoriously old and well known in the art of building construction and wall units, the blocks formed as appropriate for the desired application and varied in shape to provide adaptability for constructions therewith. As merely an example, Torricelli teaches both a rectangular block (Figs. 1-4) and teaches a curved block (Fig. 12) to be a modification thereof. Accordingly, it would have been obvious and well within the skill of one with ordinary skill in the art to modify the wall unit form of Dial or Carvel to include a non-rectangular aspect or curved wall panel design(s) in order to enable creation of correspondingly shaped non-rectangular blocks since non-rectangular blocks were notoriously old and well known in the art, as exemplified by Torricelli.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
June 20, 2004